

Rules of procedure

for the

Apprenticeship unit

Department of Labor and Industry

State of Minnesota

5200.0290 Authority, scope and purpose

Parts 5200.0290 to 5200.0420 are adopted pursuant to Minnesota Statutes, section 178.041, subdivisions 1 and 2. Their purpose is to provide procedures for the voluntary apprentice program administration.

5200.0300 Procedure for establishing programs

The procedure for establishing an approved apprenticeship program is as follows. The proposed program must be presented to the director of the Division of Voluntary Apprenticeship by the program sponsor in duplicate and must include a detailed job process for the occupation including the training standards, amount of time to be spent in each individual category of training, percentage of journeyworker's wage rate to be paid the apprentice, graduated schedule of wage increases, and the journeyman's wage rate for the proposed occupation. If the program is approved by the director, a certificate of registration will be issued to the program sponsor. Within 90 days of the certificate being issued, the program sponsor must submit to the director of the Division of Voluntary Apprenticeship a copy of at least one apprenticeship agreement or the director may revoke the certificate of registration.

5200.0310 Minimum training standards

The minimum training standards to be met in an apprenticeship agreement must be the standards for the apprenticeship program registered with the division but must be no less than the Minnesota minimum standards listed in part 5200.0320.

5200.0320 Minnesota minimum standards

Subpart 1. Definitions. When used in parts 5200.0290 to 5200.0420 the terms defined in this subpart have the meaning given them.

A. "Employer" means the apprenticeship sponsor. (Employer, apprenticeship committee, association of employers, or organization of employees.)

B. "Approval Agency" or "registration agency" means the apprenticeship advisory council.

C. "Apprenticeship agreement" means a written agreement on a form prescribed by the commissioner between the employer and the apprentice, and, if the apprentice is a minor, his or her parent or guardian, and approved by the approval agency. The form can be obtained from the Division of Voluntary Apprenticeship, Department of Labor and Industry, St. Paul, Minnesota.

D. "Apprentice" means a person at least 16 years of age who has entered into an apprenticeship agreement with an employer, which apprenticeship agreement provides for not less than 2,000 hours of reasonably continuous employment for the apprentice and for his or her participation in an approved program of training through employment and through education in related and supplemental subjects.

E. "Supervisor of apprentices" means the individual designated by the employer to perform the duties described in subpart 9.

F. "Standards" means the Minnesota minimum standards of apprenticeship.

Subp. 2. Policy. It must be the policy of the employer that all apprentices employed in a trade covered under parts 5200.0290 to 5200.0420 must be governed by the terms of these standards and by the Minnesota voluntary apprenticeship law; and the recruitment, selection, employment, and training of apprentices during their apprenticeship, must be without discrimination because of race, color, religion, national origin, or sex. The employer will take affirmative action to provide equal opportunity in apprenticeship and will operate the apprenticeship program as required under code of Federal Regulations, title 29, part 30, and under the Minnesota plan for equal opportunity in apprenticeship.

Subp. 3. Qualification of apprentices. Applicants for apprenticeship must be at least 16 years of age and must be physically qualified to perform the manual work of the trade.

Subp. 4. Apprenticeship agreement. The apprentice (and if a minor, his or her parent or guardian) shall sign the properly filled out apprenticeship agreement, which agreement must also be signed by the employer and submitted for approval to the approval agency. The apprenticeship agreement must contain a clause making these standards a part of the agreement.

The approval agency must furnish approved copies of the agreement to:

- A. the apprentice;
- B. the employer; and
- C. other interested organizations or agencies as required.

Subp. 5. Term of apprenticeship. The term of apprenticeship must be designated in hours, months, or years for the individual trades included in these standards. For each trade to be included, a job process schedule including the total training term applicable must be attached to the standards registered with the division.

Subp. 6. Credit for previous experience. Credit may be awarded for previous experience and/or training which is applicable to training program requirements. If credit is awarded, the apprentice shall be advanced in the graduated wage schedule accordingly.

Subp. 7. Probationary period. An apprentice under these standards shall be subject to a probationary period of not more than 500 hours of employment and instruction extending over not more than four months. During that period the apprenticeship agreement will be terminated by the director of the Division of Voluntary Apprenticeship at the request in writing of either party. After the probationary period the apprenticeship agreement may be terminated by the director, by mutual agreement of all parties thereto, or canceled by the director for good and sufficient reason, including violation of minimum standards.

Subp. 8. Responsibilities of apprentice. Apprentices employed under these standards shall agree to be punctual and regular in attendance, and to endeavor to the best of their ability to perfect the required skills in the chosen craft.

Subp. 9. Supervision of apprentices. The employer shall designate a qualified individual as supervisor of apprentices who shall:

- A. maintain an adequate record of progress in training each apprentice;
- B. be responsible for assuring that the requirements of the applicable training program are met during the prescribed training term; and
- C. perform other duties as may be assigned by the employer relative to the development and operation of an effective program of apprenticeship.

Subp. 10. Schedule of work processes and wage schedule. The apprentice must be given work experience and instruction according to the applicable job processes schedule in the apprenticeship program registered with the division which must be attached to the apprenticeship agreement. Training experience need not be in the exact order as listed in the schedule. Eighty percent adherence to the schedule will be considered adequate provided the full training term is accounted for. The job process schedule must provide for a minimum of 50 hours per year of training in safe work practices. For each job title there must be a minimum graduated wage schedule in the apprenticeship agreement which must be in percentages of journeyman wage and rate per hour.

Subp. 11. Related instruction. During each year of the apprenticeship term, a minimum of 144 hours of related instruction is required. Failure on the part of the apprentice to fulfill his or her related instruction requirement will be sufficient cause for cancellation of the apprenticeship agreement.

Subp. 12. Hours of Work. Working hours for apprentices must be the same as for journeyworkers in the trade. Time spent in related instruction cannot be considered as hours of work as required by the job process schedule.

Subp. 13. Certificate of completion of apprenticeship. Upon successful completion of the apprenticeship term and related training requirements, and upon appropriate recommendation by the employer, the approval agency must issue to the apprentice a certificate of completion of apprenticeship.

Subp. 14. Modification of program. Details of a program may be modified from time to time subject to approval by the director. Any modification cannot, at the time of modification, affect apprenticeship agreements in effect without the consent of the parties to the agreement. The employer may withdraw from the program by submitting a written request to the approval agency. The approval agency may cancel the standards of apprenticeship for good and sufficient reason, including violation of the Minnesota minimum standards in part 5200.0320.

Subp. 15. Compliance with Minnesota plan for equal employment opportunity in apprenticeship. The provisions of the apprenticeship program must comply with part 5200.0370 and must include an approved equal opportunity pledge.

5200.0330 Cancellation of apprenticeship agreement

The apprenticeship agreement may be canceled by the director of apprenticeship for failure to comply with training requirements.

5200.0340 Approval of apprenticeship agreements

All apprenticeship agreements must be submitted to the Division of Voluntary Apprenticeship for approval.

5200.0350 Duties of sponsor

It shall be the sponsor's obligation to:

- A. Prepare the apprenticeship program for submission to the Division of Voluntary Apprenticeship.
- B. Prepare apprenticeship agreements. All sponsors shall use the state of Minnesota approved apprenticeship agreement form.
- C. Each program operating under an apprenticeship committee pursuant to Minnesota Statutes, section 178.05, must in its standards provide for a tie-breaking procedure so it will be able to reach a majority decision.
- D. Submit two copies of a safety program providing for a minimum of 50 hours per year for safety training of apprentices. Any request for variance from this part must be presented in writing and approved by the director of the Division of Voluntary Apprenticeship.

5200.0360 Termination, cancellation, or transfer of agreements

Subpart 1. Written notice. The Division of Voluntary Apprenticeship must be notified in writing by the sponsor of all terminations, cancellations, or transfer of apprenticeship agreements.

Subp. 2. Director's approval required. All terminations, cancellations, and transfers shall be approved by the director of the Division of Voluntary Apprenticeship. The director shall notify the sponsor and all other concerned parties in writing.

Subp. 3. Appeals. Any decision to terminate, cancel or transfer an agreement by the director may be appealed under the Voluntary Apprenticeship Law, Minnesota Statutes, section 178.09.

5200.0370 Equal opportunity for apprentices

Requirements of program sponsors under the Minnesota plan for equal employment opportunity in apprenticeship and Code of Federal Regulations, title 29, part 30 are as follows:

A. Programs with fewer than five apprentices must submit the following: two copies of the proposed program, and include in its standards the approved equal opportunity pledge.

B. Programs with five or more apprentices must submit the following: two copies of the proposed programs, including in its standards the approved equal opportunity pledge and a written affirmative action plan adopting one of the following four approved selection procedures under the Minnesota plan for equal employment in apprenticeship:

- (1) selection on basis of rank from pool of eligible applicants;
- (2) random selection from pool of eligible applicants;
- (3) selection from pool of current employees; or
- (4) alternative selection methods.

C. Requirements for program reciprocity under the Minnesota plan for equal employment opportunity in apprenticeship and code of Federal Regulations, title 29, part 30, are as follows:

(1) The sponsoring entity must operate a multi-state program and not be in the building construction industry.

(2) The applicant shall offer evidence that the program meets the requirements of Code of Federal Regulations, title 29, part 30, in some other state. A certificate of registration is adequate evidence.

(3) A presentation of a request for reciprocity must be made to the Minnesota apprenticeship advisory council in writing for information purposes and for the council's advice on the request.

(4) The requesting party must offer proof which indicates that all apprentices will receive not less than 50 hours per year of safety training the program being registered in this state.

5200.0380 Complaints of discrimination

Subpart 1. Right to complain. Any apprentices or applicants for apprenticeship who believe that they have been discriminated against on the basis of race, color, religion, national origin, or sex with regard to apprenticeship or that the equal opportunity standards in respect to their selection have not been followed in the operation of an apprenticeship program may file a complaint. The complaint must be in writing and must be signed by the complainant. It must include the name, address, and telephone number of the person allegedly discriminated against, the program sponsor involved, and a description of the circumstances of the failure to apply the equal opportunity standards.

Subp. 2. Filing date. The complaint must be filed no later than 90 days from the date of the alleged discrimination.

Subp. 3. Referral of complaint. In the case of review boards designated by program sponsors to review complaints, the referral of the complaint by the complainant to the agency must occur within 90 days or 30 days after the final decision of the review board, whichever is later.

Subp. 4. Compliance reviews. Where no review board exists, the apprenticeship agency may conduct compliance reviews as found necessary in order to make a determination of facts relating to compliance with the equal employment opportunity plan.

Subp. 5. Legal action against program. The apprenticeship agency may, as a result of a compliance review or other reasons, deregister the program or refer the matter to the United States attorney general with recommendations for the institution of a court action under Title 7 of the Civil Rights Act of 1964.

5200.0390 Determination of apprentice wages

Subpart 1. Procedure. Determination of the graduated schedule of wages for an apprenticeship agreement will be determined by the percentage rate used in the majority of individual apprenticeship agreements on file with the Division of Voluntary Apprenticeship in any particular trade. The beginning rate must be at least the federal or state minimum wage rate, whichever is higher.

Subp. 2. Journeyworker wage rate. The journeyworker wage rate for apprenticeship agreements where no bargaining agreement exists shall be determined by counties, for all trades. If there is either a state or federal prevailing wage determination or apprenticeship agreement for a trade, the most current rate of the determination or agreement must be used as the journeyworker wage rate.

Subp. 3. Exceptions. The only exceptions to this part are programs in penal institutions including stipends paid by the Department of Corrections.

5200.0400 Apprenticeship committee rules

Adoption of apprenticeship committee rules or changes must be submitted to the director of the Division of Voluntary Apprenticeship in writing for approval.

5200.0410 Certificate of completion

Subpart 1. Signature. The completion certificate is the standard approved state certificate. This certificate must be signed by the commissioner of labor and industry, director of apprenticeship, a representative of the local joint apprenticeship committee, the employer, and representative from the union if a bargaining agreement exists. For those trades for which a state license is issued by a state licensing authority, issuance of the certificate of completion of apprenticeship is conditioned on the apprentice having secured the appropriate license and is a part of the registered standards for licensed trades.

Subp. 2. Written request from sponsor. Before any certificate of completion is issued, the Division of Voluntary Apprenticeship must receive a request in writing from the sponsor. If the employer does not request the completion certificate or refuses to sign a certificate, the director of the Division of Voluntary Apprenticeship, after investigating the circumstances, shall issue the certificate without the employer's request or signature, providing the apprentice has fully completed the program in compliance with the terms of the apprenticeship agreement.

5200.0420 Maintenance of records

Subpart 1. Advisory council's duty. Minnesota apprenticeship advisory council business and records are kept by the Division of Voluntary Apprenticeship for the council.

Subp. 2. Sponsor's duty. Sponsors shall keep and maintain records of progress as required by the Division of Voluntary Apprenticeship on record cards furnished by the sponsor or standard progress record cards furnished by the state, on an ongoing basis from the start to the completion of an apprenticeship. These progress records must be kept on the sponsor's premises and must be accessible to all authorized personnel of the Division of Voluntary Apprenticeship. The definition of sponsor is the employer, association of employers, organization of employees, apprenticeship coordinator, or individual representing the joint apprenticeship committee. The Division of Voluntary Apprenticeship must be notified of the current address where records are kept and the person responsible for the records.

Subp. 3. Retention and availability of records. Under the state of Minnesota plan for equal employment opportunity in apprenticeship, it is the obligation of the sponsor to keep records as required by the Division of Voluntary Apprenticeship pertaining to individual applicants for apprenticeship whether selected or rejected for five years and be made available upon request to authorized personnel of the Division of Voluntary Apprenticeship. These records pertaining to applicants must be maintained in a manner that permits identification of minority and female participants.